

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA,)	
)	Criminal No. 12-92
v.)	
)	
RICHARD BUSH,)	Bissoon, D.J.
MAYANK MISHRA, and)	
WILLIS WHEELER,)	
)	
Defendant.)	

[PROPOSED] ORDER REGARDING EVIDENTIARY ISSUES

1. In consideration of the Government's Notice of Evidentiary Issues, filed on November 27, 2015, and any response(s) thereto, the Court hereby orders that:
2. Defendants are precluded from arguing, implying, or introducing evidence of selective or vindictive prosecution, including evidence that the Government has "targeted" any Defendant or any defendant's family for prosecution in this case or in any other, at the trial of this matter. Such arguments and evidence are neither relevant to nor defenses to the crimes charged in the Superseding Indictment.
3. Defendants are precluded from arguing, mentioning, or introducing evidence regarding W.D. Pa. Case No. 13-268 or any other pending or completed case, except for the one before this jury, at the trial of this

matter. Such matters are irrelevant to any of the crimes charged in the Superseding Indictment, and the interjection of them into this proceeding would cause undue delay, confusion, prejudice, and would heighten the risk of jury nullification.

4. Defendants are precluded from mentioning, introducing evidence of, eliciting testimony about, or in any way commenting on the immigration status of anyone, including Rajeshwari Mishra, Akhil Mishra, or Mayank Mishra, at the trial of this matter. Such matters are irrelevant to the crimes charged in the Superseding Indictment and their interjection into this proceeding would cause undue delay, confusion, and prejudice. It also would heighten the risk of jury nullification.
5. All parties are precluded from arguing, mentioning, introducing any evidence about the penalties (direct or collateral) that Defendants may face if convicted at the trial of this matter. Such matters are irrelevant to any matter this jury must consider and they would encourage jury nullification. This Order does not preclude any Defendant from questioning any witness cooperating with the Government about the potential sentences that they may confront or about any sentence reduction that may be in play for having cooperated.

6. All parties are precluded from mentioning or raising any discovery disputes in the presence of the jury. Such discovery disputes which may arise are irrelevant to any matter of consequence to this jury, so they will be resolved out of the hearing of the jury at sidebar.
7. Defendants are precluded from arguing, suggesting, eliciting testimony, or adducing evidence that the chemical diluents, stamp bags, and other materials seized during the Government's searches were "legal" to possess or sell. Such arguments or evidence are irrelevant in light of the illegal goal of the conspiracy charged in the Superseding Indictment, and they are likely to confuse or mislead the jury about the legality of Defendants' conduct.
8. Defendant Mayank Mishra must make an offer of proof of before calling any witness whose percipient knowledge or expertise relevant to this case is not evident from the information included in Mishra's witness list. This Order does not apply to Mishra if he decides to testify on his own behalf, but it may apply equally to any witnesses called by Defendant Richard Bush (other than Bush himself), if the Government alerts the Court in timely fashion that Bush's proposed witnesses appear to lack percipient knowledge or expertise relevant to this case.

9. The parties shall be precluded from defining “reasonable doubt” to the jury. The Court will instruct the jury regarding reasonable doubt using the appropriate model instructions, after input from the parties.
10. All parties shall notify all counsel and witnesses of the substance of this order, whose terms are enforceable on penalty of contempt.

IT IS SO ORDERED THIS ____ DAY OF _____, 2015

THE HONORABLE CATHY BISSOON
UNITED STATES DISTRICT JUDGE